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EXAMINER
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WOOD, WILLIAM H

ART UNIT	PAPER NUMBER
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2124

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/780,083

Applicant(s)

SIRIMANNE ET AL.

Examiner

William H. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-14, 16-20 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-14, 16-20 and 22-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

Claims 1-8, 10-14, 16-20 and 22-25 are pending and have been examined.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 and 14-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cole** et al. (USPN 5,752,042) in view of **Goldband** et al. (USPN 6,434,532).

#### **Claim 1**

**Cole** disclosed a method for installing systems management software on a host device to be remotely monitored (*column 1, line 44 to column 2, line 12*), comprising:

- ♦ communicatively linking an installation station and the host device, wherein the host device is positioned remote from the installation station (*Figure 2, elements 12 and 17; and Figure 1, elements 14-16*);
- ♦ receiving over the communication link at the installation station computing environment information for the host device (*column 5, lines 65-67*);
- ♦ transmitting a software payload comprising the systems management software from the installation station to the host device (*column 1, lines 59-65*);

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- ♦ first operating the install the software payload on the host device (*column 6, lines 46-49*); and
- ♦ second operating to configure the installed software payload based on the computing environment information (**Cole**: *column 1, line 45 to column 2, line 12; column 3, lines 40-55; newly installed software must be configured properly in order to work*).

**Cole** did not explicitly state loading an installation tool from the installation station in order to install the transferred payload. **Goldband** demonstrated that it was known at the time of invention to utilize programs/tools/agents to install software (column 2, lines 10-16) and that these tools are downloaded and thus loaded from a central source (column 2, line 66 to column 3, line 2). It would have been obvious to one of ordinary skill in the art at the time of invention to implement **Cole**'s software updating system with agents/tools for installing the new software as found in **Goldband**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide an installation tool/agent which is up-to-date and well maintained (i.e. from the central managed site).

**Cole** did not explicitly state automatically installing. **Goldband** demonstrated that it was known at the time of invention to install automatically (column 2, lines 15-16; column 3, lines 15-21). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the information retrieval and installation system of **Cole** with automatic installation as found in **Goldband**'s teaching. This implementation would

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have been obvious because one of ordinary skill in the art would be motivated to allow a user "hands-off" approach (allowing for less client user work).

### Claim 2

**Cole** and **Goldband** disclosed the method of claim 1, wherein the computing environment information includes information selected from the group consisting of host information, identification of modules for monitoring the host device, thresholds based on configuration of the host device, and installation commands to run during the first operating (**Cole**: column 1, lines 49-54; column 3, lines 40-55; thresholds at least meaning versions matched).

### Claim 3

**Cole** and **Goldband** disclosed the method of claim 1, further including loading a survey tool on the host device and running the survey tool to automatically gather the computing environment information (**Cole**: column 1, lines 49-54).

### Claim 4

**Cole** and **Goldband** disclosed the method of claim 3, further including prior to the installation tool loading and the survey tool loading, transmitting the installation tool and the survey tool from the installation station to the host device (**Cole**: column 1, lines 45-54; column 3, lines 40-55). **Cole** did not explicitly state downloading an installation tool from the installation station in order to install the transferred payload. **Goldband**

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demonstrated that it was known at the time of invention to utilize programs/tools/agents to install software (column 2, lines 10-16) and that these tools are downloaded from a central source (column 2, line 66 to column 3, line 2). It would have been obvious to one of ordinary skill in the art at the time of invention to implement **Cole's** software updating system with agents/tools for installing the new software as found in **Goldband's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide an installation tool/agent which is up-to-date and well maintained (i.e. from the central managed site).

Claim 5

**Cole** and **Goldband** disclosed the method of claim 3, wherein the survey tool is configured to create an extensible markup language (XML) descriptor file including the computing environment information. Official Notice is taken that it was known at the time of invention to utilize files as a medium of transport and storage of output and a common type of file is an XML file. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the output of **Cole** within an XML file. This implementation would have been obvious because one of ordinary skill in the art would be motivated to produce output in such a manner as is standard (and thus easy to implement, XML is a standard file type used in networks especially) in the computer world.

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Claim 6

**Cole** and **Goldband** disclosed the method of claim 1, further including providing the installation station with access to a data storage device storing differing ones of the systems management software and with the installation station, selecting the software payload from the differing ones based on the received computing environment information (**Cole**: column 2, lines 35-47; column 1, line 44 to column 2, line 13; clients are being “surveyed” independently for differing versions and thus different updates).

Claim 7

**Cole** disclosed a method of deploying systems management software within a network including multiple managed hosts (column 1, line 44 to column 2, line 12), comprising:

- ♦ positioning an installation station within the network (Figure 1, elements 12 and 17), wherein the installation station includes data storage for storing the systems management software and is in communication with a first and a second one of the managed hosts (Figure 2, elements 12 and 17; and Figure 1, elements 14-16);
- ♦ transmitting from the first and second ones an installation initiation request to the installation station (column 3, lines 14-17; and column 6, lines 1-25);
- ♦ in response to receiving the installation requests, establishing with the installation station a first active installation session and a second active installation station (column 3, lines 14-17; and column 6, lines 1-25);

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- ♦ at the first and the second ones, downloading a survey tool from the installation station (*column 1, lines 49-54*);
- ♦ executing the downloaded survey tools to gather environment information for the first and second ones and to create output comprising the gathered environment information (*column 1, lines 49-54*);
- ♦ transmitting the output from the first and second ones to the installation station (*column 5, lines 65-67*);
- ♦ in response to receiving the output, transferring a payload of the systems management software to the first and second ones (*column 1, lines 59-65*); and
- ♦ at the first and second ones, installing the transferred payloads (*column 6, lines 46-49*).
- ♦ wherein the transferring and installing of the payloads is remotely managed with the first and second active installation sessions at the installation station (*column 3, lines 14-17; and column 6, lines 1-25; "sever determines"*)

**Cole** did not explicitly state downloading an installation tool from the installation station in order to install the transferred payload. **Goldband** demonstrated that it was known at the time of invention to utilize programs/tools/agents to install software (column 2, lines 10-16) and that these tools are downloaded from a central source (column 2, line 66 to column 3, line 2). It would have been obvious to one of ordinary skill in the art at the time of invention to implement **Cole's** software updating system with agents/tools for installing the new software as found in **Goldband's** teaching. This implementation



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would have been obvious because one of ordinary skill in the art would be motivated to provide an installation tool/agent which is up-to-date and well maintained (i.e. from the central managed site).

**Cole** and **Goldband** did not explicitly state survey tools creating output *files*. Official Notice is taken that it was known at the time of invention to utilize files as a medium of transport and storage of output. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the output of **Cole** within a file. This implementation would have been obvious because one of ordinary skill in the art would be motivated to produce output in such a manner as is standard (and thus easy to implement) in the computer world.

#### Claim 8

**Cole** and **Goldband** disclosed the method of claim 7, wherein the survey tool downloading, the executing, the installation tool downloading, the transmitting, and the installing occur at least partially concurrently at the first and the second ones of the managed hosts (*Figure 1, elements 14-16 and elements 12 and 17 are all connected in parallel, thus "partially concurrently"*).

#### Claim 10

**Cole** and **Goldband** disclosed the method of claim 7, wherein the gathered environment information for the first one differs from the gathered environment

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information for the second one and further including prior to the transferring (*column 2, lines 35-47*), selecting a first portion of the systems management software for inclusion in the payload to the first one based on the gathered environment information and selecting a second portion of the systems management software for inclusion in the payload to the second one based on the gathered environment information (*column 1, line 44 to column 2, line 13; clients are being "surveyed" independently for differing versions and thus different updates*).

#### Claim 11

**Cole** and **Goldband** disclosed the method of claim 10, further including after the installing of the transferred payloads, configuring the installed payloads at the first and second ones based on the differing environment information (**Cole**: *column 1, line 44 to column 2, line 13; clients are being "surveyed" independently for differing versions and thus different updates/configurations*).

#### Claim 14

**Cole** disclosed a networked method for automatically deploying and installing agent software in a network computer device (*column 1, line 44 to column 2, line 12; agent software is a subset of code updates*), comprising:

- ♦ communicatively linking an installation station via a communications network to the network computer device (*Figure 1*);

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- ♦ downloading a survey from the installation station onto the network computer device (*column 1, lines 45-54; column 3, lines 40-55*);
- ♦ executing the survey to automatically create an output defining a computing environment for the network computer device (*column 1, lines 45-54; column 3, lines 40-55; column 5, lines 42-67*);
- ♦ transfer a copy of the output to the installation station (*column 1, lines 55-65*);
- ♦ in response to receiving the copy, transferring the agent (*in this case agent refers to updated software*) software to the network computer device over the communications network (*column 1, lines 55-65*); and
- ♦ installing the agent software on the network computer device with the installation Daemon (*column 6, lines 46-49*).

**Cole** did not explicitly state downloading an installation tool from the installation station in order to install the transferred payload or with the installation Daemon, performing modifications of the installed agent software based on the output file to enhance operation of the installed agent software. **Goldband** demonstrated that it was known at the time of invention to utilize programs/tools/agents to install software (column 2, lines 10-16) and that these tools are downloaded from a central source (column 2, line 66 to column 3, line 2). It would have been obvious to one of ordinary skill in the art at the time of invention to implement **Cole's** software updating system with agents/tools for installing the new software as found in **Goldband's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide an installation tool/agent which is up-to-date and well maintained (i.e. from the

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central managed site). Furthermore, based upon the combination, **Goldband** and **Cole** disclosed with the installation Daemon, performing modifications of the installed agent software based on the output file to enhance operation of the installed agent software (*column 2, lines 15-17; Cole: column 3, lines 14-39*).

**Cole** did not explicitly state installation tool for transmitting the environment information over the communications network. **Goldband** demonstrated that it was known at the time of invention to utilize programs/tools/agents to install programs and to transmit data back to a central server/site (column 2, lines 2-17). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the updating/installing system of **Cole** with installation program to send information about the host/client system to the central server as found in **Goldband's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide single a program (such as an agent; single program demonstrated in prior art as an effective solution) which can effectively gather information, send information and install programs.

**Cole** did not explicitly state automatically installing. **Goldband** demonstrated that it was known at the time of invention to install automatically (column 2, lines 15-16; column 3, lines 15-21). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the information retrieval and installation system of **Cole** with automatic installation as found in **Goldband's** teaching. This implementation would

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have been obvious because one of ordinary skill in the art would be motivated to allow a user "hands-off" approach (allowing for less client user work).

**Cole** and **Goldband** did not explicitly state survey tools creating output *files*. Official Notice is taken that it was known at the time of invention to utilize files as a medium of transport and storage of output. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the output of **Cole** within a file. This implementation would have been obvious because one of ordinary skill in the art would be motivated to produce output in such a manner as is standard (and thus easy to implement) in the computer world.

**Cole** and **Goldband** did not explicitly state survey tool being a *script*. Official Notice is taken that it was known at the time of invention to utilize scripts as executable commands. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the system of **Cole** and **Goldband** with a survey tool as a script. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide a survey tool as a commonly implemented element such as a script (scripts are often used due to easy maintainability).

#### Claim 16

**Cole** and **Goldband** disclosed the method of claim 14, wherein the output file includes information selected from the group consisting of network computer device hardware

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and software configuration information, identification of modules for monitoring the network computer device, thresholds based on configuration of the network computer device, and installation commands for the installation Daemon to run during the installing (**Cole**: column 1, lines 49-54; column 3, lines 40-55; **Goldband**: column 4, lines 1-23; column 2, lines 15-17).

Claim 17

**Cole** and **Goldband** did not explicitly state the method of claim 14, wherein the installation Daemon is adapted to create progress messages during the installing and wherein the progress messages are accessible by the network computer device. However, **Goldband** demonstrated that it was known at the time of invention to send information about current states and processes to the server (column 3, lines 15-22) and making that information available to the user (column 4, line 63 to column 5, line 12). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Cole** and **Goldband** with creating progress messages during installation and reporting to interested parties as suggested by **Goldband**'s own teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide information in the event of an error about services **Goldband** is demonstrated to be performing (column 2, lines 2-17).

Claim 18

**Cole** disclosed a network system for remotely monitoring an operating computer system (column 1, line 44 to column 2, line 12), comprising:

- ♦ a managed host in the operating computer system linked to a communications network (*Figure 1, elements 14-16*), the managed host including a survey tool for automatically gathering environment information (column 1, lines 45-54; column 3, lines 40-55) and an installation tool for installing systems management software on the managed host (column 6, lines 46-49); and
- ♦ an installation station linked to the communications network configured to receive the environment information (column 1, lines 45-59) and in response to transmit a payload of the systems management software to the managed host (column 1, lines 59-65).
- ♦ a remote service linked to the communications network and operable to monitor operations of the computer system via execution of the installed systems management software on the managed host (**Cole**: column 3, lines 9-11 and column 6, lines 1-25; at least monitoring enough to provide correct software at correct time via installed installation routines)

**Cole** did not explicitly state installation tool for transmitting the environment information over the communications network. **Goldband** demonstrated that it was known at the time of invention to utilize programs/tools/agents to install programs and to transmit data back to a central server/site (column 2, lines 2-17). It would have been obvious to one

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of ordinary skill in the art at the time of invention to implement the updating/installing system of **Cole** with installation program to send information about the host/client system to the central server as found in **Goldband's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide single a program (such as an agent; single program demonstrated in prior art as an effective solution) which can effectively gather information, send information and install programs.

**Cole** did not explicitly state automatically installing. **Goldband** demonstrated that it was known at the time of invention to install automatically (column 2, lines 15-16; column 3, lines 15-21). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the information retrieval and installation system of **Cole** with automatic installation as found in **Goldband's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to allow a user "hands-off" approach (allowing for less client user work).

**Claim 19**

**Cole** and **Goldband** disclosed the system of claim 18, wherein the installation tool is further configured to modify the installed systems management software based on the environment information (**Goldband**: column 2, lines 15-17).



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Claim 20

**Cole** and **Goldband** disclosed the system of claim 18, wherein the installation station processes the environment information to select the payload to match the environment information (**Cole**: column 1, line 45 to column 2, line 12; column 3, lines 40-55).

Claim 22

**Cole** and **Goldband** did not explicitly state the system of claim 21, wherein the installation tool functions to generate an installation report and transmit the installation report to the installation station, wherein the installation station functions in response to the installation report to transmit a request for approval of adding the managed host to the network system to the remote service, and wherein the remote service responds to the request for approval by determining whether to begin monitoring the managed host.

However, **Goldband** demonstrated that it was known at the time of invention to send information about current states and processes to the server (column 3, lines 15-22) and making that information available to the user (column 4, line 63 to column 5, line 12). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Cole** and **Goldband** with creating progress messages during installation and reporting to interested parties as suggested by **Goldband**'s own teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide information in the event of an error about services **Goldband** is demonstrated to be performing (column 2, lines 2-17).

**Goldband** demonstrated that it was known at the time of invention to provide for management functions (column 4, lines 1-23) and report to a central site (column 3, lines 15-22; column 4, line 63 to column 5, line 12). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the network system of **Goldband** and **Cole** with conditional inclusion depending on a report of installation. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide the server with communicating to fully functioning agent or other software that is installed error free.

Claim 23-25

The limitations of claims 23-25 correspond to claims 1-11 and 14-22 and as such are rejected in the same manner.

3. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cole** et al. (USPN 5,752,042) in view of **Goldband** et al. (USPN 6,434,532) and in further view of "**Microsoft** Computer Dictionary", Third Edition.

Claim 12

**Cole** and **Goldband** did not explicitly state the method of claim 7, further including allocating network addresses to network devices associated with the first and second ones. **Microsoft** demonstrated that it was known at the time of invention to utilize the

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dynamic SLIP protocol wherein a user's IP address is assigned every time a user connects (page 166; every time a user connects meaning at least partially concurrently) and also DHCP (page 142). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the networked system of **Cole and Goldband** with dynamic allocation of network address using dynamic SLIP. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide the above system with commonly known technology to efficiently use a limited number of IP addresses (see SLIP definition).

**Claim 13**

**Cole and Goldband** did not explicitly state the method of claim 12, wherein the network address allocating is performed at least partially concurrently with the installing and wherein network addresses are selected from network addresses preprogrammed into a router based on a forecasted number of the associated network devices.

**Microsoft** demonstrated that it was known at the time of invention to utilize the dynamic SLIP protocol wherein a user's IP address is assigned every time a user connects (page 166; every time a user connects meaning at least partially concurrently) and also DHCP (page 142). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the networked system of **Cole and Goldband** with dynamic allocation of network address using dynamic SLIP. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide the

above system with commonly known technology to efficiently use a limited number of IP addresses (see SLIP definition).

### ***Response to Arguments***

4. Applicant's arguments filed 29 January 2004 have been fully considered but they are not persuasive. Applicant argued: <sup>1)</sup> **Cole** does not configure installed software; <sup>2)</sup> **Cole** does not configure based on computing environment information; <sup>3)</sup> **Cole** does not disclose automatically; <sup>4)</sup> **Cole** and **Goldband** fail to teach gathering identification of modules for monitoring the host device; <sup>5)</sup> **Cole's** server does not create and deliver payload without operator intervention; <sup>6)</sup> **Cole** and **Goldband** do not disclose remote installation/monitor/management; <sup>7)</sup> Prior Art does not disclose allocating network address to network devices; and <sup>8)</sup> **Cole** and **Goldband** do not disclose modifying agent to enhance operation of the agent. The above arguments are incorrect and do not represent an accurate reflection of the cited prior art.

First, Applicant argued **Cole** does not configure software. All software *must* be configured in some manner in order to operate on a system. The very fact that **Cole** acquires system information and makes a determination of software that is consistent for that system is a form of configuration (the software is at very least pre-configured to download in such a manner that is able to run on a system of certain requirements). Thus, the installation tools of **Cole** configures at least indirectly, by aiding in acquiring the correctly configured software. The broadest reasonable interpretation of Applicant's claim language does not indicate a method or mechanism by which configuration is

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achieved. This is not to say that **Cole** does not possess the ability to further configure after download by the installation tools.

Second, Applicant argued **Cole** does not configure based upon computing environment information. Yet, **Cole** specifically acquires the target system's information (column 3, lines 40-55). As above, **Cole** is shown to configure and here **Cole** is shown to be performing based upon the target systems environment.

Third, Applicant argued **Cole** does not perform "automatically". Furthermore, Applicant definitively states, "Goldband is only cited for the concept of loading an installation agent or module onto a client from a remote location" (Response received 29 January 2004: page 14, lines 4-6). **Goldband** is cited additionally for the purpose of "automation" (Office Action mailed 30 December 2003: page 3, last two lines to page 4, line 5).

Fourth, Applicant argued **Cole** and **Goldband** do not disclose "identification of modules for monitoring the host device". This was taught by **Cole** (column 3, lines 45-50; at very least by "obtains basic system information using scout APIs", the APIs and the recognizer monitor the target system). Applicant, further argued **Cole** and **Goldband** are not directed toward installing monitoring software and therefore cannot gather information about the host device. This is completely ignores both **Cole** and **Goldband** (**Cole**: column 1, lines 49-54; recognizer/monitor programs; **Goldband**: column 2, lines 3-5).

Fifth, Applicant argued **Cole**'s server does not create and deliver payload without operator intervention. This statement does not correlate to claim 6. The broadest

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reasonable interpretation of the claim reads, *a server selects a payload based on the received information, wherein the payload comprises installable software*. The claim states nothing about “operator intervention”. **Goldband** teaches “automation” if a user’s intervention is not desirable (column 2, lines 15-17; column 3, lines 15-22).

Sixth, Applicant argued **Cole** and **Goldband** do not disclose remote installation/management. However, this is incorrect. **Cole** clearly demonstrates server involvement (column 6, lines 1-25), which illustrates under the broadest reasonable interpretation of the claim language “management”. The server is at least managing through provided choices and distributed software. Additionally, **Goldband** provides for (as originally cited) automation of tasks/functions/operations/installing. The cited combination easily allows for a client/server system in which the server exercises some degree of management over the client.

Seventh, Applicant argued Prior Art does not disclose allocating network address to network devices. Addressed above under modified rejection of claims 12 and 13.

Eighth, Applicant argued **Cole** and **Goldband** do not disclose modifying agent to enhance operation of the agent. Applicant’s limitation states: “performing modifications of the installed agent software based on the output file to enhance operation of the installed agent software”. **Goldband** states: “install an upgrade or bug fix for either an application or the agent itself, etc.” (column 2, lines 15-16). An upgrade or bug fix *is* an “enhancement”. The agent *is* the agent. **Goldband** further states: “The agent ... gathers activity information about the operations of the software programs and uploads this information to a particular server machine ...” (column 2, lines 3-5). **Cole** states:

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"In response, the general manager 31 determines if the client's update manager 32, scout 33, service application 12, and download routine 39 are the latest version" (column 3, lines 20-22). Here, environment information/output file is used to determine the need to enhance operations. The combined references clearly disclose the limitation in question.

These responses are believed to illustrate the prior art of record does indeed disclose Applicant's claimed invention. Additionally, the response are believed to address all of Applicant's concerns. Thus, the specifically argued claims and all dependent or similarly worded claims are rejected as stated above.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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***Correspondence Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (703)305-3305. The examiner can normally be reached 7:30am - 5:00pm Monday thru Thursday and 7:30am - 4:00pm every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-7239 for regular communications and (703)746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

William H. Wood

April 1, 2004

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